

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7305 of 1996

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? No.
 2. To be referred to the Reporter or not? No.

J

3. Whether Their Lordships wish to see the fair copy of the judgement? No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.
5. Whether it is to be circulated to the Civil Judge? No.

PN CHAVDA

Versus

SALES TAX OFFICER

Appearance:

MR IS SUPEHIA, Advocate, for Petitioner

MR DA BAMBHANIA Asstt. Govt. Pleader for Respondents.

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 29/10/96

ORAL JUDGEMENT

Rule, returnable today. Learned Asstt. Government Pleader Mr. Bhambhanian waives service of rule on behalf of the respondents.

2. The petitioner who has been serving as a Sale-tax Inspector was offered the benefit of higher grade under Order dated 12-8-1996 and his pay as on 1-6-1996 was

fixed at Rs.3300/-. However, under the communication dated 23-9-1996 the said benefit has been withdrawn and recovery is ordered to be made of the amount of difference of salary paid to the petitioner under the order dated 12-8-1996. It is this order dated 23-9-1996 which is the subject matter of challenge in this petition.

3. Learned Advocate Mr. Supehia has contended that irrespective of legality of the petitioner's claim for higher grade, the benefit of higher grade which was once granted could not have been withdrawn without affording opportunity to the petitioner to show cause or of hearing. Learned Additional Govt. Pleader concedes that the petitioner has not been afforded opportunity to show cause or of hearing before the impugned order dated 23-9-1996 was made. However, he disputes the petitioner's claim for higher grade and has submitted that the petitioner during his service tenure has earned as many as three promotions. The petitioner was, therefore, not entitled to the higher grade.

4. Since I am allowing this petition on the ground of violation of the principles of natural justice I do not enter into the merits of the claim made by the petitioner. The petition is allowed. The impugned order dated 23-9-1996 is quashed and set aside. It is, however, clarified that the respondents shall be at liberty to make necessary order after affording an opportunity to the petitioner to show cause. This order is made without prejudice to the rights and contentions of either of the parties to this petition.

5. The petition is allowed to the aforesaid extent. Rule is made absolute. There shall be no order as to costs.

-0-0-0-0-0-